

## INCREASING THE SALARIES OF REFEREES IN BANKRUPTCY

JUNE 26, 1952.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

Mr. FEIGHAN, from the Committee on the Judiciary, submitted the  
following

### REPORT

[To accompany S. 2240]

The Committee on the Judiciary, to whom was referred the bill (S. 2240), to amend section 40 of the Bankruptcy Act, so as to increase and fix the salary of full-time referees and to authorize increased salaries for part-time referees, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### STATEMENT

The purpose of the proposed legislation is to increase the limit of salaries of full-time referees from \$10,000 per annum to \$12,500 per annum, and to increase the limit on the salaries of part-time referees from \$5,000 per annum to \$6,000 per annum. This legislation has the endorsement and recommendation of the Judicial Conference of the United States as set forth in the report received from the Administrative Office of the United States Courts, dated October 25, 1951, which is attached hereto.

The bill, as introduced, set an automatic salary for full-time referees at \$12,500, while the bill, as amended and passed by the Senate, leaves the actual amount to be received by referees to be set by the Judicial Conference of the United States and only raises the limit to \$12,500, to which the Judicial Conference may go if, in its judgment, such referee is entitled to that salary. Referees in those jurisdictions where the workload is not too heavy would, of course, receive salaries below the limit authorized. This bill does not raise the salary of any referee but leaves such increase to the discretion of the Judicial Conference.

The Department of Justice in its report, dated December 12, 1951, which is attached hereto, does not object to the salary raise and approves the bill in its present form.

The salary system of compensating referees for their services has been more than self-sustaining since its establishment on July 1, 1947. As a matter of fact, there was a surplus in the referees' salary fund from which their salaries are paid of \$1,078,876 as of December 31, 1951. Annual salaries paid the referees now total approximately \$870,000 as compared with annual payments into the salary fund by parties to bankruptcy proceedings of about \$1,250,000 thus leaving an annual surplus at present of some \$380,000. The estimated cost of the increase provided by S. 2240 is \$200,600 per annum which is well within the current yearly surplus so that the increase would cast no burden on the general funds of the Government. None of the regular Federal Pay Act increases have been applicable to referees in bankruptcy. The increases in the salary limits provided in S. 2240 will be no more than the cost-of-living increases provided for other Federal employees.

The committee believes that the bill is meritorious and recommends its favorable consideration.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,  
Washington, D. C., October 25, 1951.

HON. PAT McCARRAN,  
Chairman, Committee on the Judiciary,  
United States Senate, Washington, D. C.

DEAR SENATOR McCARRAN: In the absence of Mr. Chandler from Washington I am replying to your request of October 11, 1951, for a report upon S. 2240, introduced by Senator Kefauver, which would amend section 40 of the Bankruptcy Act so as to increase and fix the salary of full-time referees and to authorize increased salaries for part-time referees. This bill is identical with H. R. 3337, Eighty-second Congress, first session, introduced by Congressman Bolling on March 20, 1951.

At present salaries of all referees are fixed by the Judicial Conference of the United States, in the light of the recommendations of the circuit councils, made after advising with the district judges of their respective circuits and of the Director, within a maximum limit of \$10,000 per annum for full-time referees and within a maximum limit of \$5,000 for part-time referees. S. 2240 if enacted would provide a fixed salary of \$12,500 for all full-time referees and a maximum of \$6,500 per annum for all part-time referees, the amount of the latter to be fixed by the Judicial Conference of the United States as at present.

Pursuant to the direction of the Judicial Conference of the United States at a special session held in Washington, D. C., on March 19 and 20, 1951, Mr. Chandler, on May 7, 1951, circulated among the circuit and district judges (1) a copy of a bill introduced by Congressman Byrne (H. R. 1651, 82d Cong.) which if enacted would raise the maximum limit on the salaries of full-time referees from \$10,000 to \$13,000 per annum, and on those of part-time referees from \$5,000 to \$6,500 per annum, the salaries for both full-time and part-time referees to be fixed by the Judicial Conference of the United States as at present; (2) a report of a special committee of the National Association of Referees in Bankruptcy recommending that all full-time referees receive a fixed salary of \$12,500 per annum, and that part-time referees receive salaries to be fixed by the Judicial Conference at rates not exceeding \$6,500 per annum; (3) a bill introduced by Congressman Bolling (H. R. 3337, 82d Cong.) which as stated above is identical with S. 2240 embodying the recommendations contained in such report and (4) an estimate prepared by Mr. Covey of the Bankruptcy Division of this office of the increase in the annual cost of salaries of referees which might be entailed by the various proposals depending upon the action taken under them by the Judicial Conference and the relation of the increases to the referees' salary fund. Mr. Chandler requested the circuit and district judges, the judicial conferences and the judicial councils to express their views upon the bills as well as upon the

general question of compensation for the referees in bankruptcy. The Judicial Conference at its March session further directed that all views expressed be communicated to the committee on bankruptcy administration of the conference for its consideration and that the committee make further report to the conference at its next regular meeting.

The committee on bankruptcy administration of which Chief Judge Orie L. Phillips of Denver, Colo., is chairman, met on July 30, 1951. It had before it the letters expressing the views of the district judges and the circuit conferences so far as they had acted upon the question. The committee was of the opinion that in view of the steady increase in the cost of living since the establishment in 1947 of the salary system for compensating referees, especially in the metropolitan areas where many of the full-time referees are located, the maximum limits upon the salaries of referees should be raised. The committee considered, however, that there were a number of districts in which it was desirable to provide full-time referees as at present but in which conditions would not warrant the maximum salary and in which competent referees would be willing to accept full-time appointments at less than the maximum. Consequently it would not favor a fixed salary for all full-time referees as it felt that a fixed salary would destroy the flexibility of the present system and would be likely to increase unduly the cost of the system.

The chairman of the committee reported to the Judicial Conference at its regular session held in Washington on September 24 to 26, 1951, that the committee preferred the Byrne bill (H. R. 1651) and recommended its approval with an amendment fixing the maximum salary for full-time referees at \$12,500 and for part-time referees at \$6,000, both to be fixed by the Judicial Conference of the United States as under the present law.

The conference approved the recommendation.

So far as I am informed no bill has been introduced in the Senate embodying specifically the provisions of H. R. 1651 introduced by Congressman Byrne in the House of Representatives. I enclose a draft of a bill embodying the provisions recommended by the Judicial Conference.

Should hearings be held on any of these bills we would be pleased to furnish any information we can to your committee.

Sincerely yours,

ELMORE WHITEHURST,  
*Assistant Director.*

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DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D. C., December 12, 1951.

HON. PAT McCARRAN,  
*Chairman, Committee on the Judiciary, United States Senate,*  
*Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 2240) to amend section 40 of the Bankruptcy Act, so as to increase and fix the salary of full-time referees and to authorize increased salaries for part-time referees.

Section 40 of the Bankruptcy Act (11 U. S. C. 68) provides that the salaries of referees shall be fixed by the Judicial Conference at rates of not more than \$10,000 per annum for full-time referees and not more than \$5,000 per annum for part-time referees. It also provides that during the tenure of any full-time referee, his salary shall not be reduced below that at which he was originally appointed nor changed more often than once in any 2 years or in an amount of less than \$250.

The bill would amend section 40 so as to fix the salaries of all full-time referees at \$12,500 per annum, and increase the maximum salary limitation for part-time referees to \$6,500.

Whether legislation to increase the salaries of referees in bankruptcy should be enacted involves a question of policy concerning which this Department prefers not to make any recommendation. There would appear to be some question, however, as to the wisdom of placing all full-time referees on the same salary level and depriving the Judicial Conference of its present power to fix the salary at a rate lower than a certain maximum when conditions seem to so require. The annual report of the Director of the Administrative Office of the United States Courts for the fiscal year 1951 states that at the end of that year there were

55 full-time referees of whom approximately two-thirds received the maximum salary of \$10,000. It would appear that since approximately one-third of these positions were not then considered deserving of the maximum salary, this proportion might be even larger should the salary be increased to \$12,500. While this Department would have no objection to increasing the maximum salary of full-time referees to \$12,500, it would seem advisable to retain the present provision of section 40 authorizing the Judicial Conference to fix the salary within that limitation rather than to require that all should be paid the same salary.

It is assumed that the committee has obtained the views of the Administrative Office of the United States Courts concerning the measure.

The Director of the Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

A. DEVITT VANECH,  
Deputy Attorney General.

Attached hereto and made a part of this report is the following statistical information furnished by the Administrative Office of the United States Courts:

1. Statement of receipts and disbursements from the referees' salary and expense funds from July 1, 1947, through May 31, 1952.
2. Estimate of the cost of the proposed changes in referees' compensation.
3. Salary increases under the various Federal Pay Acts since 1946 in grades comparable to the maximum salaries provided for part-time and full-time referees.
4. Present salaries of referees tabulated by circuits.

*Bankruptcy—Statement of receipts and disbursements from July 1, 1947, through May 31, 1952*

SALARY FUND

Fiscal years	Receipts	Disbursements	Surplus
1948.....	\$643, 190	\$732, 694	<sup>1</sup> \$89, 504
1949.....	1, 008, 596	768, 597	239, 999
1950.....	1, 151, 816	812, 968	338, 848
1951.....	1, 241, 331	845, 686	395, 635
1952 (first 11 months).....	1, 157, 988	<sup>2</sup> 804, 000	<sup>2</sup> 359, 988
Surplus May 31, 1952.....			<sup>2</sup> 1, 238, 983

<sup>1</sup> Deficit.

<sup>2</sup> Estimated.

EXPENSE FUND

Fiscal years	Receipts	Disbursements	Surplus
1948.....	\$692, 604	\$574, 441	\$118, 163
1949.....	870, 513	715, 645	154, 863
1950.....	1, 109, 909	881, 617	228, 292
1951.....	1, 221, 839	975, 904	245, 935
1952 (first 11 months).....	1, 165, 933	<sup>2</sup> 990, 000	<sup>2</sup> 175, 933
Surplus May 31, 1951.....			<sup>2</sup> 923, 191
Total surplus in both funds, May 31, 1952.....			<sup>2</sup> 2, 162, 157



## INCREASE SALARIES OF REFEREES IN BANKRUPTCY

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*Referees' salary fund—Statement of receipts and disbursements*

## FISCAL YEAR 1948

Advancement from Treasury general fund.....	\$350, 000
Receipts from parties to proceedings.....	643, 190
Total receipts for year.....	993, 190
Salary payments, fiscal year 1948.....	732, 694
Cash balance on hand June 30, 1948.....	260, 496
Deduct Treasury advancement, 1948.....	350, 000
Operating deficit, fiscal year 1948.....	- 89, 504

## FISCAL YEAR 1949

Cash balance, June 30, 1948, carried forward.....	260, 496
Advancement from Treasury general fund.....	170, 000
Receipts from parties to proceedings.....	1, 008, 596
Total receipts for year.....	1, 439, 092
Salary payments, fiscal year 1949.....	768, 597
Balance.....	670, 495
Repayment to Treasury general fund.....	170, 000
Cash balance on hand June 30, 1949.....	500, 495
Deduct Treasury advancement, 1948 (unpaid).....	350, 000
Net balance, fiscal year 1949.....	150, 495

## FISCAL YEAR 1950

Cash balance, June 30, 1949, carried forward.....	500, 495
Receipts from parties to proceedings.....	1, 151, 816
Total receipts for year.....	1, 652, 311
Salary payments, fiscal year 1950.....	812, 968
Balance.....	839, 343
Repayments to Treasury general fund.....	250, 000
Cash balance on hand, June 30, 1950.....	589, 343
Deduct Treasury advancement, 1948 (unpaid).....	100, 000
Net balance, end of fiscal year 1950.....	489, 343

## FISCAL YEAR 1951

Cash balance, June 30, 1950, carried forward.....	589, 343
Receipts from parties to proceedings.....	1, 241, 331
Total receipts for year.....	1, 830, 674
Salary payments, fiscal year 1951.....	<sup>1</sup> 845, 696
Balance.....	984, 978
Repayments to Treasury general fund.....	100, 000
Cash balance on hand, June 30, 1951.....	884, 978

## FIRST 11 MONTHS, FISCAL YEAR 1952

Cash balance, June 30, 1951, carried forward.....	884, 978
Receipts from parties to proceedings.....	1, 157, 988
Total receipts.....	2, 042, 966
Salary payments (11 months).....	<sup>1</sup> 804, 000
Cash balance on hand, May 31, 1952.....	1, 238, 966

<sup>1</sup> Estimated.

## INCREASE SALARIES OF REFEREES IN BANKRUPTCY

*Referees' expense fund—Statement of receipts and disbursements*

## FISCAL YEAR 1948

Advancement from Treasury general fund.....	\$350, 000
Receipts from parties to proceedings.....	692, 604
Total receipts for year.....	1, 042, 604
Disbursements for expenses, fiscal year 1948.....	574, 441
Cash balance on hand, June 30, 1948.....	468, 163
Deduct Treasury advance, 1948.....	350, 000
Operating balance, fiscal year 1948.....	118, 163

## FISCAL YEAR 1949

Cash balance, June 30, 1948, carried forward.....	468, 163
Advancement from Treasury general fund.....	150, 000
Receipts from parties to proceedings.....	870, 513
Total receipts for year.....	1, 488, 676
Disbursements for expenses, fiscal year 1949.....	715, 645
Balance.....	773, 031
Repayment to Treasury general fund.....	150, 000
Cash balance on hand, June 30, 1949.....	623, 031
Deduct Treasury advancement 1948 (unpaid).....	350, 000
Net balance, fiscal year 1949.....	273, 031

## FISCAL YEAR 1950

Cash balance, June 30, 1949, carried forward.....	623, 031
Receipts from parties to proceedings.....	1, 109, 909
Total receipts for year.....	1, 732, 940
Disbursements for expenses, fiscal year 1950.....	881, 617
Balance.....	851, 323
Repayment to Treasury general fund.....	250, 000
Cash balance on hand, June 30, 1950.....	601, 323
Deduct Treasury advancement, 1948 (unpaid).....	100, 000
Net balance end of fiscal year 1950.....	501, 323

## FISCAL YEAR 1951

Cash balance, June 30, 1950, carried forward.....	601, 323
Receipts from parties to proceedings.....	1, 221, 839
Total receipts for year.....	1, 823, 162
Disbursements for expenses.....	975, 904
Balance.....	847, 258
Repayment to Treasury general fund.....	100, 000
Cash balance end of fiscal year 1951.....	747, 258

*Referees' expense fund—Statement of receipts and disbursements—Continued*

FIRST 11 MONTHS FISCAL YEAR 1952

Cash balance, June 30, 1951, carried forward.....	\$747, 258
Receipts from parties to proceedings.....	1, 165, 933
Total receipts.....	1, 933, 191
Disbursements for expenses (11 months).....	1 990, 000
Cash balance on hand, May 31, 1952.....	1 923, 191

## RECAPITULATION OF NET BALANCES

Net balance referees' salary fund.....	1 1, 238, 966
Net balance referees' expense fund.....	1 923, 191
Total cash balance in both funds.....	1 2, 162, 157

<sup>1</sup> Estimated.

## ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Washington 13. D. C., June 16, 1952

## ESTIMATE OF THE COST OF THE PROPOSED CHANGES IN REFEREES' COMPENSATION

Giving effect to the salary increases and changes for referees in bankruptcy approved by the Judicial Conference of the United States at a special meeting held in Washington on March 19 to 20, 1952, effective April 1, 1952, the salaries authorized total \$876,800 per annum. There are now 55 full-time and 108 part-time positions, a total of 163.

Of the 55 full-time referees, 36 now receive the maximum salary of \$10,000 per annum and 11 receive salaries of \$9,000. Included in the remaining full-time positions are 6 at \$7,500; 1 at \$7,000 and 1 at \$6,500 per annum. The total cost of all full-time positions is now \$517,500.

Of the 108 part-time referees, 34 now receive the maximum part-time salary of \$5,000 per annum. The remaining 74 part-time positions carry salaries ranging from \$500 to \$4,500 per annum. The total cost of all part-time positions is now \$359,300.

Payments into and disbursements from the referees' salary fund since the establishment of the salary system and the income and estimated disbursements for the first 11 months of the fiscal year 1952 are as follows:

Fiscal year	Income	Salaries paid	Surplus
1948.....	\$643, 190	\$732, 694	1 \$89, 504
1949.....	1, 008, 596	708, 567	239, 999
1950.....	1, 151, 816	812, 968	338, 848
1951.....	1, 241, 381	845, 696	395, 635
1952 (first 11 months).....	1, 157, 988	1 804, 000	1 353, 988
Surplus, May 31, 1952.....			2 1, 238, 966

<sup>1</sup> Deficit.<sup>1</sup> Estimated.

Inasmuch as the bill passed by the Senate (S. 2240, 82d Cong., 2d sess.) still leaves in the Judicial Conference the determination of the salaries to be paid, it is difficult to give a definite estimate of the cost. Based on the following assumptions the cost would be:

1. Assuming a straight percentage increase throughout the system for all full-time positions and for all part-time positions of 20 percent, the total cost would then be \$1,052,160 or an increase of \$175,360.

2. Assuming a straight percentage increase throughout the system for all full-time positions and for all part-time positions of 25 percent, the total cost would then be \$1,096,000 or an increase of \$219,200.

## INCREASE SALARIES OF REFEREES IN BANKRUPTCY

3. Assuming a 25-percent increase for all full-time referees and a 20-percent increase for all part-time referees, the total cost would be \$1,078,035 or an increase of \$201,235 per year over the present cost.

It will be observed that all of the figures given above as to the total cost are well within the income from the referees' salary fund in 1950 and 1951. Also at the current rate for 1952, the income will exceed substantially the cost of any of the estimates given above.

*Salary increases under various pay acts since 1946*

	1946 act <sup>1</sup>	1948 act <sup>2</sup>	1949 act <sup>3</sup>	1951 act <sup>4</sup>	Within-grade promotions	Total, including promotions	Increase since 1946
Grade GS 10e.....	\$5,027.40	\$5,357.40	\$5,500	\$6,000	\$250	\$6,250	\$1,222.60
Grade GS 15d.....	10,000.00	10,330.00	10,500	11,550	250	11,800	1,800.00

<sup>1</sup> Federal Employees' Pay Act of 1946 (Public Law 390, approved May 24, 1946).

<sup>2</sup> Postal Rate Revision and Federal Employees' Salary Act of 1948 (Public Law 900, approved July 3, 1948).

<sup>3</sup> Classification Act of 1949 (Public Law 429, approved Oct. 28, 1949).

<sup>4</sup> Federal Employees Pay Act of 1951 (Public Law 201, approved Oct. 24, 1951).

*Salaries of referees—Apr. 1, 1952*

Annual rates of pay	Circuits											Total annual salaries	
	First	Second	Third	Fourth	Fifth	Sixth	Seventh	Eighth	Ninth	Tenth	District of Columbia		Total
\$500.....						1						1	\$500
\$600.....					1							1	600
\$800.....				1								1	800
\$900.....												0	0
\$1,000.....					3	1						4	4,000
\$1,200.....							1			1		2	2,400
\$1,500.....		1		2				1	1			5	7,500
\$1,800.....		2			2	1			2			7	12,600
\$2,000.....				2	3		1	3	1			10	20,000
\$2,400.....									1			1	2,400
\$2,500.....	2		1	2	1		1	1		1		9	22,500
\$3,000.....	1		1	3	3		2	1		1		12	36,000
\$3,500.....		1	1		3		2		3	1		11	38,500
\$4,000.....			3	1				1		2		7	28,000
\$4,500.....				1		1	1					3	13,500
\$5,000.....	3	1	1	4	9	4	4	1	6		1	34	170,000
Total, part-time.....	6	5	7	16	25	8	12	8	14	6	1	108	359,300
\$6,500.....					1							1	6,500
\$7,000.....								1				1	7,000
\$7,500.....		2			1	3						6	45,000
\$8,000.....												0	0
\$9,000.....					3	1	3	2	2			11	99,000
\$10,000.....	2	10	5		3	5	4		7			36	360,000
Total full-time.....	2	12	5	0	5	11	5	4	9	2	0	55	517,500
Circuit totals.....	8	17	12	16	30	19	17	13	23	8	1	163	876,800

## CHANGES IN EXISTING LAW

In compliance with clause 2a of rule XIII of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

\* \* \* \* \*

SEC. 40. COMPENSATION OF REFEREES; REFEREES' SALARY AND EXPENSE FUNDS; RETIREMENT OF REFEREES.—(a) Referees shall receive as full com-



pensation for their services salaries to be fixed by the conference, in the light of the recommendations of the councils, made after advising with the district judges of their respective circuits, and of the Director, at rates not more than **[\$10,000]** \$12,500 per annum for full-time referees, and not more than **[\$5,000]** \$6,000 per annum for part-time referees. In fixing the amount of salary to be paid to a referee, consideration shall be given to the average number and the types of, and the average amount of gross assets realized from, cases closed and pending in the territory which the referee is to serve, during the last preceding period of ten years, and to such other factors as may be material. Disbursement of such salaries shall be made monthly by or pursuant to the order of the Director.

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